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HOUSE OF REPRESENTATIVES

REPORT
101-46

AUTHORITY TO SETTLE CLAIMS RESULTING FROM LAW ENFORCEMENT ACTIVITIES

MAY 4, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on the Judiciary submitted the following

REPORT

[To accompany H.R. 972]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 972) to amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) INCREASED AUTHORITY.—Section 3724 of title 31, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "$500" and inserting in lieu thereof "$50,000"; and

(B) by striking out "the Director" and all that follows through "Investigation" and inserting in lieu thereof "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice"; and

(2) in subsection (b) by striking out "The Attorney General" in the first sentence and all that follows through "The" in the second sentence and inserting in lieu thereof the following: "The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the".

(b) CONFORMING AMENDMENTS.—

(1) The section heading for section 3724 of title 31, United States Code, is amended to read as follows:

H523-2.

"§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice".

(2) The item relating to section 3724 in the table of sections at the beginning of chapter 37 of title 31, United States Code, is amended to read as follows:

"3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply to any claim arising on or after the date of the enactment of this Act, to any claim pending on such date, and to any claim arising before such date which has not been settled if the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.

PURPOSE

The purpose of H.R. 972, as amended, is to amend title 31, Section 3724, United States Code, to increase from $500 to $50,000 the amount under authority of the Attorney General to settle for claims resulting from the law enforcement activities of the Department of Justice, and to expand coverage of the statute to all law enforcement components of the Department.

SUMMARY OF H.R. 972

H.R. 972 increases, from $500 to $50,000, the amount of a claim arising from law enforcement activities conducted by the Department of Justice that the Attorney General has the authority to settle. The bill, as amended, would expand the coverage of the statute to include not only the Federal Bureau of Investigation (FBI), but all law enforcement officers of the Department of Justice when carrying out their official duties by executing search warrants, making arrests, or seizing evidence. H.R. 972 further provides that the Attorney General shall report annually to the Congress all settlements made pursuant to this statute.

BACKGROUND

Under current law, 31 U.S.C. 3724(a), the Attorney General has the authority to settle claims of up to $500 which arise from the law enforcement activities of the Federal Bureau of Investigation. This authority is used to reimburse innocent third parties who suffer damage as the result of the law enforcement activities of the FBI. For example, in searching for bodies reportedly buried under the concrete floor of a building, it was necessry to dig up the floor. The operation was successful and the bodies were recovered. However, in carrying out the operation, damages in the amount of $3000 were incurred by the owner of the building. The agents on the job assured him that the government would take care of the costs and that his property would be restored to its original condition. In fact, the government does not have the authority to repair the damages or pay the owner the costs of repairs, except that the Attorney General may settle such a claim for up to $500. In addition, the owner has no recourse against the government under the Federal Tort Claims Act (FTCA) because the actions taken by the government were not negligent.

The amendments contained in H.R. 972 would increase the amount for a claim the Attorney General is authorized to settle to $50,000. The current law was enacted on March 20, 1936, and the

amount of $500 has not been changed in the 53 years since enact-
ment. This amount is no longer always adequate in tod ay's market
to make innocent third parties whole for the damages s uffered as a
result of the law enforcement activities of the Departm nt.

H.R. 972 would also expand the coverage of the bill t include all
law enforcement components of the Department of J ustice. Cur-
rently, only the FBI is authorized to settle claims f or damages
which arise out of its law enforcement activities. The o ther law en-
forcement components within the Department (the U.S. Marshal's
Service, Drug Enforcement Administration (DEA), th e Bureau of
Prisons, and the Immigration and Naturalization S rvice (INS))
have no current authorization to settle claims for dam ges suffered
by innocent third parties as the result of the lawful a ctions taken
by the agency in carrying out its law enforcement ac tivities. Per-
sons who suffer damages caused by these agencies and who have no
cause of action under the FTCA are left without a ny recourse
whatsoever.

H.R. 972 was amended to provide that the Act would apply to all
law enforcement officers, as defined by 28 U.S.C. 268 (h), who are
employees of the Department of Justice. 28 U.S.C. 268 (h) defines a
"law enforcement officer" as "any officer of the Unite d States who
is empowered by law to execute searches, to seize ev idence, or to
make arrests for violations of Federal law." The agen ts of the FBI
are not the only employees of the Department of Jus tice who exe-
cute search warrants, seize evidence, and make arrest s. Employees
of the DEA, INS, U.S. Marshal Service, and at times, t he Bureau of
Prisons also carry out these activities. The Committe e determined
that the provisions of this Act should apply to the a ctivity of the
law enforcement officer when such officer is carrying out the func-
tion of executing search warrants, seizing evidence, ar d making ar-
rests, not to the agency within the Department for w hom the offi-
cer works. The purpose of this Act is to make whole t hose innocent
third parties who suffer damages as a result of the le gally conduct-
ed law enforcement activities by employees of the D epartment of
Justice. Therefore, the Committee determined that a s a matter of
justice and equity, this provision should apply to the law enforce-
ment activities of all employees of the Department of Justice when
acting within the course and scope of their employme nt as law en-
forcement officers of the United States.

An additional provision contained in H.R. 972 wo uld amend 31
U.S.C. 3724(b). This amendment requires the Attorn ey General to
report annually to the Congress all settlements ma de under this
section. Currently, the statute provides that the Att orney General
shall certify a settlement for payment out of an appr opriation that
may be made to pay the settlement. The Committee was informed
that the Attorney General has never certified to the Congress any
settlement for payment of a claim under this statu te because no
separate appropriation has ever been sought. Instea d, these claims
have been paid out of the operating budget of the De partment. The
annual reporting requirement is added to ensure o versight of the
payments for such claims since the amount author ized for settle-
ment is being greatly increased and the coverage of the statute is
being expanded.

COMMITTEE ACTION

On March 22, 1989, the Subcommittee on Administrative Law and Governmental Relations held a hearing on H.R. 972, and heard testimony from the following witnesses: Thomas A. Kelley, Deputy Assistant Director, Legal Counsel Division, Federal Bureau of Investigation; and Brent O. Hatch, Deputy Assistant Attorney General, Civil Division, Department of Justice.

The Subcommittee held a mark-up of the bill on April 13, 1989, adopted one amendment and reported the bill favorably to the full Committee in the form of a single amendment in the nature of a substitute incorporating the amendment adopted.

On April 25, 1989, the Committee on the Judiciary considered H.R. 972, and reported the bill favorably to the House with a single amendment in the nature of a substitute.

STATEMENTS UNDER RULE XI, CLAUSE 2(1)(2)(B), CLAUSE 2(1)(3)(A), CLAUSE 2(1)(3)(B), CLAUSE 2(1)(3)(D), AND CLAUSE 2(1)(4); RULE XIII, CLAUSE (7)(a)(1); RULE XI, CLAUSE 2(1)(3)(C); AND RULE XIII, CLAUSE (3)

COMMITTEE VOTE

(Rule XI, 2(l)(2)(B))

On April 25, 1989, a reporting quorum being present, the full Committee on the Judiciary approved the bill, H.R. 972, with a single amendment in the nature of a substitute, by a voice vote.

OVERSIGHT STATEMENT

(Rule XI, 2(1)(3)(A))

The Subcommittee on Administrative Law and Governmental Relations of this Committee exercises the Committee's oversight responsibility with reference to claims against the Government in accordance with Rule VI(b) of the Rules of the Committee. The favorable consideration of this bill was recommended by that Subcommittee and the Committee determined that the legislation should be enacted as set forth in this bill.

BUDGET STATEMENT

(Rule XI, 2(1)(3)(B))

H.R. 972 does not directly provide budget authority nor does it involve new or increased tax expenditures contemplated by Clause 2(l)(3)(B) of Rule XI.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

(Rule XI, 2(1)(3)(D))

No findings or recommendations of the Committee on Government Operations were received as referred to in subdivision (D) of clause 2(l)(3) of House Rule XI.

INFLATIONARY IMPACT

(Rule XI, 2(1)(4))

In compliance with clause 2(l)(4) of House Rules XI, it is stated that this legislation will have no inflationary impact on prices and costs on the operation of the national economy.

COST

(Rule XIII, 7(a)(1))

The costs are those outlined in the cost estimate of the Congressional Budget Office included in this report.

COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

(Rule XI, 2(1)(3)(C))

The cost estimate of the Congressional Budget Office, prepared pursuant to section 403 of the Congressional Budget Act of 1974 and received by the Committee on May 3, 1989, is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 3, 1989.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 972, a bill to amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice, as ordered reported by the House Committee on the Judiciary, April 25, 1989.

Based on information provided by the U.S. Department of Justice (DOJ), CBO estimates that the increased costs to the government would be less than $50,000 a year—probably significantly less in most years. This estimate is based on the Federal Bureau of Investigation's (FBI) recent experience with the claims affected by this bill.

H.R. 972 would increase from $500 to $50,000 per case the amount payable by the DOJ for damages resulting from law enforcement activities. The bill would also expand the coverage of the statute to other law enforcement bureaus in the DOJ—the Drug Enforcement Administration, the Immigration and Naturalization Service, the U.S. Marshals Service, and the Bureau of Prisons; the current statute applies only to the FBI. This authority is intended to reimburse innocent third parties who suffer damage as the result of the law enforcement activities of the DOJ.

The FBI currently processes 25 to 30 claims each year and pays roughly $10,000 each year as settlements of these claims. According to the FBI, most of these claims would not be affected by the increased limit. Nevertheless, an average of four claims are not settled each year because the claimants refuse to accept the $500 maximum payment; these claimants have no recourse in the courts

and receive no payments. It is difficult to predict how much these settlements would be with a higher limit, but we expect them to be no more than $5,000 to $7,000 per case on average. Therefore, increased settlement costs are unlikely to exceed $20,000 to $30,000 per year for the FBI. The settlements are paid from appropriated funds.

The other law enforcement bureaus in the DOJ are not currently covered by this statute, and have not maintained records on third party claims. Taken together, these bureaus probably conduct about the same number of investigations as the FBI, and would probably have similar experiences with third party claims. Therefore, we estimate that the total costs of the bill would be roughly double the costs to the FBI—probably no more than $50,000 annually. Costs in most years are likely to be less.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michael Sieverts, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

The following is the hearing statement of the Department of Justice on H.R. 972:

TESTIMONY OF BRENT O. HATCH, DEPUTY ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, DEPARTMENT OF JUSTICE

My name is Brent O. Hatch, and I am a Deputy Assistant Attorney General in the Civil Division of the Department of Justice. Among my responsibilities, I have charge of the Division's Torts Branch, which deals with claims for damages arising from, among other things, the law enforcement activities of the federal government. H.R. 972, the bill presently before the Committee, addresses a recurring problem that arises when proper law enforcement activities necessarily impinge on the innocent citizen. It is a problem which has no satisfactory solution under current law. With some modification and clarification, this bill will serve the interests of both the federal law enforcement community and the public at large.

Injuries caused by the conduct of federal law enforcement and investigative officers can be grouped under two general categories: those that arise from negligent or wrongful conduct; and those that arise from the proper performance of enforcement or investigative duties. The first category is treated comprehensively by the Federal Tort Claims Act. Under that Act, persons injured by the "negligent or wrongful" conduct of federal investigative or law enforcement officers may seek compensation by filing an administrative tort claim—an effort to secure a settlement from the agency involved. If that effort fails, a tort suit for damages against the United States may follow. In one forum or the other, the citizen injured by the negli-

gent or wrongful actions of federal officers can be made whole.

But not all the actions of federal investigative or law enforcement officers that cause injury or damage can be called "negligent or wrongful." In the proper execution of their duties, federal officers may find it necessary to take action which results in incidental injury or damage. For example, in order to execute a warrant properly issued on probable cause, agents of the Drug Enforcement Administration may find it necessary to break down a door. If the house is owned by a third party, under present law, that party has no remedy. The act of breaking down the door cannot be meaningfully called negligent or wrongful. Further, the limited settlement authority the Attorney General has under present law extends only to acts of FBI agents. The innocent landowner in this example is left without a remedy. That result is not acceptable. But neither is it right that the entirely proper activities of our dedicated investigative and law enforcement officers be characterized as "negligent" or "wrongful" in order to correct an injustice to the public at large.

Under 31 U.S.C. § 3724, a citizen who is injured in his person or property by an FBI Agency may present a claim for that injury to the Attorney General who may settle such claims "for not more than $500.00"—an amount that today may not replace a door that was damaged in the course of the proper execution of a warrant. Moreover, a citizen injured by a DEA Agent, or a Border Patrolman, or a Deputy Marshal has no claim for any award. H.R. 972 would redress that imbalance to a large degree.

The bill would raise the limit presently placed on the Attorney General's authority to settle claims for damage caused by the actions of any officer or employee of the Federal Bureau of Investigation or other law enforcement component of the Department of Justice. From the present clearly inadequate level, the bill would raise the Attorney General's authority to $50,000, a figure which would permit prompt and efficient resolution of most of the property damage claims likely to arise from the proper execution of the law enforcement and investigative functions of the Department of Justice. While we may expect that there might occur an occasional personal injury claim that would require a settlement in a larger amount, our experience has shown such claims to be extremely rare. This bill contemplates only administrative resolution of claims; it does not allow judicial review of the Attorney General's decisions.

The Department of Justice supports H.R. 972 in principle. However, the bill as drafted needs some clarification in order to achieve its commendable goals. First, as drafted the authority granted to the Attorney General would extend to settlement of claims arising from the actions of "any officer or employee of the Federal Bureau of Investigation or other law enforcement component of the Depart-

ment of Justice." This grant of authority is too vague. In a broad sense most of the functions of the Department of Justice look toward the enforcement of the law. For that reason, for example, the functions of the litigating arms of the Antitrust Division or of the Civil Rights Division, for example, are aimed at the enforcement of the law; they might be thought to be within the sweep of the term "law enforcement component of the Department of Justice." But the intent of the bill is narrower: it seeks to provide authority for recompense of injuries caused by investigative or law enforcement officers employed by the Department of Justice. For that purpose, language added to the Federal Tort Claims Act in 1975 coud be adapted to replace the general terms in the bill.

In 1975, Congress added the "law enforcement" proviso to the "intentional torts" exclusion of the Federal Tort Claims Act. That proviso sought to allow suit against the United States for the negligent or wrongful conduct of the very officers and employees whose rightful conduct this bill seeks to address. The definitional language used there could well be adapted to this bill. Thus § 1(a)(1)(B) might be amended to read as follows:

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) INCREASED AUTHORITY.—Section 3724 of title 31, United States Code, is amended—

* * * * *

> (B) by striking out "the Director" and all that follows through "Investigation" and inserting in lieu thereof "an investigative or law enforcement officer as defined in § 2680(h) of Title 28 who is employed by the Department of Justice * * *"

This would make clear that the authority granted extends to the actions of officers employed by the Department of Justice who are empowered by law to execute searches, to seize evidence, or to make arrests for violation of federal law. At the same time, it would obviate the necessity of including in the statute a catalogue of the covered Department of Justice agencies—a catalogue which might have to be amended whenever the Attorney General seeks to reorganize the Department.

The bill makes a significant change in the present statute's reporting requirements. Subsection (b) of § 3724 at present requires the Attorney General to certify to the Congress each settlement made under the statute. The payment is drawn from the funds appropriated annually for the operations of the FBI. If the authority to settle such claims is broadened to include all the investigative and law enforcement arms of the Department of Justice, reporting every settlement paid from funds appropriated for the operations of the particular component on an ad hoc basis would seem to be unnecessarily burdensome both to the Congress and to the Department. Congressional oversight can be facilitated by an annual reporting re-

quirement. Annual reporting would present an accessible picture of the way the authority is exercised in a way that ad hoc reports would not permit while reducing the flood of reports to Congress. Accordingly, we support the bill's deletion of the requirement of present law that each settlement be separately reported and replaces it with an annual reporting requirement.

The Attorney General has delegated to the Director of the FBI authority to settle claims under present § 3724. For that reason, any questions you have regarding the experience that has been developed under present law is appropriately addressed by representatives of the Bureau.

This bill would go far to provide compensation for members of the public injured by the proper conduct of federal investigative and law enforcement personnel. If it is modified as I have suggested, the Department of Justice would enthusiastically support its passage. I am prepared to answer any questions the Members may have.

The following is the hearing statement of the Federal Bureau of Investigation on H.R. 972:

OPENING STATEMENT OF THOMAS A. KELLEY, DEPUTY ASSISTANT DIRECTOR, LEGAL COUNSEL DIVISION, FEDERAL BUREAU OF INVESTIGATION

SUMMARY

The Federal Bureau of Investigation (FBI) supports, with several clarifications, H.R. 972 which would raise settlement authority from $500 to $50,000 and in expanding settlement authority within the Department of Justice. The testimony of Brent O. Hatch, Deputy Assistant Attorney General in the Civil Division, discusses the modifications of H.R. 972 that are recommended by the Department. We support the bill because we believe that this statute was passed in order to compensate innocent persons injured by lawful FBI activity and to help maintain the level of cooperation the public has given the FBI. A limit of $500 per case is no longer adequate to achieve those goals.

On the average the FBI processes from 25 to 30 claims a year under Title 31, United States Code (U.S.C.), Section 3724, and we pay out a total of from $6,000 to $10,000 a year in settlements. However, in several cases the $500 maximum offer is declined altogether, or is accepted even though actual damages are much higher. We estimate that if H.R. 972 is passed, settlement of FBI claims under Title 31, U.S.C., Section 3724, would cost approximately $40,000 a year.

Mr. Chairman and Members of the Subcommittee: I am pleased to appear before you to discuss H.R. 972, a bill to amend Title 31, U.S.C., Section 3724.

My name is Thomas A. Kelley, and I am the Deputy Assistant Director of the Legal Counsel Division of the Federal Bureau of Investigation. As part of my duties I super-

vise the FBI's handling of claims for personal injuries and property damage under Title 31, U.S.C., Section 3724, which this bill would amend.

The FBI supports H.R. 972 with several clarifications, which will raise the settlement authority from $500 "in any one case" to $50,000, and of course we also support the concept of expanding settlement authority within the Department of Justice. The testimony of Brent O. Hatch, Deputy Assistant Attorney General in the Civil Division, discusses the modifications of H.R. 972 that are recommended by the Department.

Our primary focus, however, is upon raising the settlement limit because of our experience in administering these claims over many years. That experience has shown us that the $500 limit simply is not enough to accomplish the results we believe Congress originally intended: compensation of innocent persons harmed by lawful FBI action, and protection of the FBI's cooperative relationship with the public it serves. A case in point will illustrate our concerns about the inadequacy of the settlement limit and our relationship with the public.

An FBI investigation in New York determined that two murder victims had been encased in concrete and buried, one beneath the floor of a commercial building and the other in the backyard, part of which subsequently was paved over for use as a driveway. Later the premises were sold to a new owner, who had no knowledge that the bodies were buried underneath his property. The FBI obtained a search warrant for the bodies, which necessitated tearing up the floor and driveway in order to unearth the remains. The bodies were recovered, and the innocent owner spent approximately $3,400 to have the driveway and floor repaired. The owner then submitted to the FBI a claim for that amount under the Federal Tort Claims Act.

Unfortunately, the FBI had to deny the claim. The Federal Tort Claims Act allows for compensation only where the Government acted negligently or wrongfully, and that was not the case here. The FBI was doing no more or less than it had to do to execute the search warrant. We then offered the innocent owner $500 under this statute—Title 31, U.S.C., Section 3724—but the owner never responded to our offer and no lawsuit has been filed. Claims filed under this statute are resolved administratively, and the decisions made are not subject to judicial review. We surmise that this owner, like others in this position, believes that the $500 limit is so low in relation to the cost of repair that it is not worth the effort of pursuing the Government for payment. While this $500 limitation no doubt is saving the Government money in the short run, the FBI believes that the long-term cost of the $500 limit is excessively high. Although we have no way of measuring that long-term cost, it is an expense we pay every day.

The FBI cannot do its job without the cooperation of the law-abiding public. The claims that we process under this

statute are from citizens who have done no wrong and who have usually cooperated with us as best they can. When the Government damages people's property or injures them in the performance of its duty, their loss is no less real, and the Government's refusal to pay for the loss creates a feeling of resentment. That resentment may well be manifest the next time the FBI or some other law enforcement agency seeks the cooperation of that citizen or someone who has heard about how he/she was treated. This unmeasurable cost in lost public confidence and cooperation is too high a price for law enforcement to pay.

One cost that can be measured, however, is the simple economic cost of the present system. Under this statute, the FBI processes from 25 to 30 claims a year on the average. Almost all of these claims are for property damage, rather than personal injury, and they usually result from our having to force entry onto premises to execute a search warrant or an arrest warrant. The figures for claims actually settled in 1987 and 1988 are as follows:

	1987	1988
Number of claims	32	20
Number of claims over $500	9	7
Total amount claimed	$16,112.28	$12,547.50
Total amount paid	10,271.71	6,249.48
Average amount claimed	503.52	627.38
Average payment per claim	320.99	312.47
Total unpaid	4,894.27	6,298.02

In addition to claims actually settled, we usually average four claims per year that we do not settle because of the $500 limit and the claimant's refusal to compromise. These unsettled claims average about $7,500 each. Thus we estimate that the proposed $50,000 settlement authority would cost the FBI approximately $30,000 a year more for these claims, for a total added annual cost of approximately $35,000 ($30,000 plus the approximately $5,000 a year not paid out of present claims) if the amendment were approved. Further, based on these figures and our past experience, we believe that the $50,000 settlement limit would be adequate to cover all our present claims under this statute, and that $50,000 would be adequate to cover claims for some years in the future.

Although the additional $35,000 per year does not appear to be an excessively high figure, it is nonetheless a significant amount. When one adds the $35,000 additional expense to the approximately $6,000 to $10,000 per year we are already paying, the total annual cost to the FBI of administering an amended statute would be over $40,000. However, these increased settlement costs would probably be offset by a savings in the reduced United States Attorney manhours expended in defending the lawsuits that result from denying some claims.

We caution that this estimate of $40,000 per year is based on traditional claims of physical injury to the persons or physical injury to property, such as breaking down a door. It certainly does not contemplate settlement of personal injury claims such as injury to reputation or emotional distress for which remedies under the Federal Tort Claims Act may often not exist. Nor does it contemplate settlement of "property damage" claims arising from such things as business losses suffered by third parties as a result of lawful FBI activity, such as undercover operations. The $500 limit is so low that Title 31, U.S.C., Section 3724 has traditionally not been considered as a means of compensating third parties who suffer injuries of that sort.

Although this bill increases the settlement ceiling, the FBI will, of course, continue to carefully screen claims filed under this provision to insure that they are justified and fully documented. Unmeritorious claims will not be paid.

In conclusion, we believe that H.R. 972 will be of material assistance to both the law-abiding public and the Federal law enforcement community. Subject to the suggestions expressed in Mr. Hatch's testimony, we believe H.R. 972 will ensure compensation for innocent third parties damaged by the lawful conduct of Federal investigative and law enforcement personnel, and at the same time assist law enforcement officers in retaining the cooperation of the public.

Changes in Existing Law Made by the Bill, as Reported

(Rule XIII, Clause 3)

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

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Subtitle III—Financial Management

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CHAPTER 37—CLAIMS

SUBCHAPTER I—GENERAL

Sec.
3701. * * *

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SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss.
3722. Claims of officers and employees at Government penal and correctional institutions.
3723. Small claims for privately owned property damage or loss.
[3724. Claims for damages caused by the Federal Bureau of Investigation.]
3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice.

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SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

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[§ 3724. Claims for damages caused by the Federal Bureau of Investigation]

§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice

(a) The Attorney General may settle, for not more than [$500] *$50,000* in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by [the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation] *an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice* acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) [The Attorney General shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The] *The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the* Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

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